

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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WILLIAM K. DUFFY, KENNETH HUBER,
PHILLIP CAPOBIANCO, JOHN DUFFY, SCOTT
ADRIAN, PAUL O'BRIEN, MARC HERBST,
JAMES HANEY, III, and JAMES PRATT, III, as
Trustees of LOCAL 138 138A & 138B,
INTERNATIONAL UNION OF OPERATING
ENGINEERS WELFARE FUND, LEGAL FUND,
APPRENTICESHIP TRAINING FUND, and
ANNUITY FUND, MICHAEL FANNING as CEO
of the CENTRAL PENSION FUND and WILLIAM
K. DUFFY, JR. as PRESIDENT of LOCAL 138,
138A, 138B & 138C, INTERNATIONAL UNION
OF OPERATING ENGINEERS,

ORDER

09-cv-5304 (ADS) (ETB)

Plaintiffs,

-against-

WEBCO CONTRACTING OF ABERDEEN, INC.,
WEBCO INC. and WILBERT E. BAKER,

Defendants.

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APPEARANCES:

Archer, Byington, Glennon & Levine, LLP

Attorneys for the plaintiffs
425 Broadhollow Road
Suite 405
PO Box 9064
Melville, NY 11747

By: Paula A. Clarity, Esq., of Counsel

NO APPEARANCE

Webco Contracting of Aberdeen Inc.
Webco, Inc.
Wilbert E. Baker

SPATT, District Judge.

The plaintiffs commenced this action on or about December 3, 2009, asserting various labor-related claims against the defendants. On May 13, 2010, the Court entered a default judgment against the defendants, and referred the matter to United States Magistrate Judge E. Thomas Boyle for an inquest as to damages. On October 12, 2010, Judge Boyle issued a thorough Report recommending that the plaintiff be awarded damages in the amount of: (1) unpaid contributions in the amount of \$7,876.48; (2) interest in the amount of \$2,023.86; (3) “double interest” in the amount of \$2,023.86; (4) post-judgment interest, to be calculated pursuant to 28 U.S.C. § 1961; (5) attorney’s fees in the amount of \$6,303.00 and, (6) costs in the amount of \$605.00. To date, no objection has been filed to Judge Boyle’s Report and Recommendation.

In reviewing a report and recommendation, a court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). “To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Boyle’s Report and finds it be persuasive and without any legal or factual errors. There being no objection to Judge Boyle’s Report, the Court adopts the Report.

For the foregoing reasons, it is hereby:

ORDERED that Judge Boyle's Report and Recommendation is adopted in its entirety, and it is further

ORDERED that the Clerk of the Court is directed to enter a default judgment against the defendants in the amount recommended by Judge Boyle; and it is further

ORDERED that the Clerk of the Court is respectfully directed to close this case.

SO ORDERED.

Dated: Central Islip, New York
March 17, 2011

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge